

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



January 17, 2002

Regulation Package 1200-24

CDSS MANUAL LETTER NO. CCL-01-15

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,  
CHAPTER 8, RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

**Regulation Package #1200-24****Effective 8/26/01****Sections 87454 and 87455.1**

Senate bill 933 (Chapter 311, Statutes of 1998) and AB 1659 (Chapter 881, Statutes of 1999) required that prior to an individual's presence or employment in a community care facility, a residential care facility for the elderly, a residential care facility for the chronically ill, or a child care facility, the individual have fingerprints submitted for purposes of a criminal background check. The statutes provide for the imposition of an immediate civil penalty of \$100 per violation on a licensee who permits a person to be present in a facility who violates this requirement. These regulations implement this legislative requirement. It is necessary for the department to place clear criteria and procedures for the implementation of these civil penalties into regulation.

Since these regulations were nonsubstantive they did not require a public hearing.

**FILING INSTRUCTIONS**

**Revisions to all manuals are shown in graphic screen.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-01-14. The latest prior manual letter containing Residential Care Facilities for the Elderly changes was Manual Letter No. CCL-01-06.

**Page(s)**

2

70 and 71

72.1

**Replace(s)**

Page 2

Pages 70 and 71

Insert after Page 72

Attachment

SM

## TABLE OF CONTENTS

## TITLE 22, DIVISION 6

## CHAPTER 8. RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

## Article 1. Definitions

	Section
General .....	87100
Definitions .....	87101
Definitions - Forms .....	87102

## Article 2. License

License Required .....	87105
Operation Without a License .....	87106
Exemption from Licensure.....	87107
Integral Facilities .....	87108
Limitations - Capacity and Ambulatory Status .....	87110
Advertisements and License Number .....	87111
False Claims.....	87112
Transferability .....	87113
Continuation of License Under Emergency Conditions .....	87114
Posting of License .....	87115
Program Flexibility .....	87116
Applicant/License Mailing Address.....	87117
Nondiscrimination.....	87118
Facility Hospice Care Waiver .....	87124.1

## Article 3. Application Procedures

Application for License.....	87218
Criminal Record Clearance .....	87219
Fire Clearance .....	87220
Plan of Operation .....	87222
Disaster and Mass Casualty Plan .....	87223
Application/Renewal Processing Fees .....	87224
Commingling of Money .....	87225
Bonding.....	87226

## TABLE OF CONTENTS (Continued)

## Article 3. Application Procedures (Continued)

Safeguards for Cash Resources, Personal Property, and Valuables of Residents .....	87227
Application Review .....	87228
Capacity .....	87229
Withdrawal of Application .....	87230
Provisional License .....	87231
Term of an Initial or Renewal License .....	87233
Application for Renewal of License .....	87234
Resubmission of Application .....	87235
Conditions for Forfeiture of a Residential Care Facility for the Elderly License .....	87236

## Article 4. Administrative Actions

	<b>Section</b>
Denial of Initial License .....	87340
Denial of a Renewal License .....	87341
Revocation or Suspension of License .....	87342
Relocation of Resident - General .....	87342.1
Licensee Complaints .....	87343
Inspection Authority .....	87344
Evaluation Visit .....	87345
Exclusions .....	87346

## Article 5. Enforcement Provisions

Serious Deficiencies - Examples .....	87451
Deficiencies in Compliance .....	87452
Follow-Up Visits to Determine Compliance .....	87453
Penalties .....	87454
Administrative Review - General .....	87455
Denial or Revocation of License for Failure to Pay Civil Penalties .....	87455.1
Unlicensed Facility Penalties .....	87457
Unlicensed Facility Administrative Appeal .....	87458

## Article 6. Continuing Requirements

Governing Body .....	87560
Reporting Requirements .....	87561
Finances .....	87562
Administrator - Qualifications and Duties .....	87564
Administrator Certification Requirements .....	87564.2
Administrator Recertification Requirements .....	87564.3
Denial or Revocation of a Certificate .....	87564.4
Forfeiture of a Certificate .....	87564.5

**87452 DEFICIENCIES IN COMPLIANCE (Continued)****87452**

2. The number of residents affected.
  3. The availability of equipment or personnel necessary to correct the deficiency.
  4. The estimated time necessary for delivery and any installation of necessary equipment.
- (B) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 87454(c), (d) and (e).
- (C) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days. If the date for correcting the deficiency is more than 30 days following service of the notice of deficiency the notice shall specify action which must be taken within 30 calendar days to begin correction.
- (5) The amount of penalty which shall be assessed and the date the penalty shall begin if the deficiency is not corrected by the specific due date.
- (6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority cited: Section 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.30, 1569.31, 1569.312, 1569.315, 1569.335, 1569.485, 1569.49 and 1589.49, Health and Safety Code.

**87453 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE****87453**

- (a) A follow-up visit shall be conducted within 10 working days following the latest date of correction specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required in the notice of deficiency. No penalty shall be assessed unless a follow-up visit is conducted.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.

**87453 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE (Continued)****87453**

- (c) A notice of penalty shall be in writing and shall include:
- (1) The amount of penalty assessed, and the date the payment is due.
  - (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed pursuant to Sections 87454(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Section 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485, and 1569.49, Health and Safety Code.

**87454 PENALTIES****87454**

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for all serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.
- (b) Notwithstanding Section 87454(a) above, an immediate penalty of \$100 per cited violation shall be assessed for failure to submit fingerprints on any individual required to be fingerprinted under Health and Safety Code Section 1569.17(b) prior to the person's employment, residence or presence in the facility.
- (1) Progressive civil penalties specified in Sections 87454(d) and (e) shall not apply.
- (c) Notwithstanding Section 87454(a) above, an immediate penalty of \$150 per day shall be assessed for any of the following:
- (1) Sickness, injury or death of a client has occurred as a result of the deficiency.
- (d) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (e) When a facility that was cited for a deficiency subject to the immediate penalty assessment specified in Section 87454(d) above violates the same regulation subsection within a 12-month period of the last violation the facility shall be cited and an immediate penalty of \$1,000 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$100 per day, per cited violation, shall be assessed until the deficiency is corrected.

**87454 PENALTIES (Continued)****87454**

- (1) For purposes of Sections 87454(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

---

**HANDBOOK BEGINS HERE**

An example of the same regulation subsection are Sections 87218(a)(2) and 87218(a)(5). Sections 87218(a) and 87218(b) are not the same regulation subsection.

---

**HANDBOOK ENDS HERE**

- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
- (1) Immediate penalty assessments as specified in (c), (d) and (e) above shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.
- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue.
- (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (h) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.
- (i) If an immediate civil penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

NOTE: Authority cited: Section 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485, and 1569.49, Health and Safety Code.

**87455 ADMINISTRATIVE REVIEW - GENERAL****87455**

- (a) A licensee or his/her representative may request in writing a review of a notice of deficiency, notice of penalty and/or health condition relocation order within 10 working days of receipt of the notice or order. This review shall be conducted by a higher level staff person other than the evaluator who issued the notice of deficiency, notice, of penalty, and/or health condition relocation order.

(1) Additional review requirements pertaining to Incidental Medical Services are specified in Section 87720.

- (b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations of the Department, he/she shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.30, 1569.33, 1569.335, 1569.35, 1569.485, 1569.49, and 1569.54, Health and Safety Code.

**87455.1 DENIAL OR REVOCATION OF LICENSE FOR  
FAILURE TO PAY CIVIL PENALTIES****87455.1**

- (a) The licensee shall be responsible for paying civil penalties.
- (1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
- (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
- (2) The Department shall have the authority to approve the form of payment.
- (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.
- (c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1569.51.

NOTE: Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code. Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485, 1569.49, and 1569.51, Health and Safety Code.



**This page is intentionally left blank.**

---